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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,093	12/28/2001	Clifford Jackson Ellis	16222	1715

23556 7590 06/16/2004

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EXAMINER	
WATKINS III, WILLIAM P	
ART UNIT	**PAPER NUMBER**
1772	

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/035,093	ELLIS ET AL.	
	Examiner	Art Unit	
	William P. Watkins III	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 March 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2 and 7-36* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 2, and 7-36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-2, 7-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Srinivasan et al. (U.S. 5,851,935) or Quantrille et al. (U.S. 5,431,991) in view of Abuto et al. (U.S. 6,096,668).

Srinivasan et al. teaches the use of two unbonded carded webs joined to a thermoplastic elastic layer of each side (col. 6, lines 30-40, col. 5, lines 15-25). Quantrille '991 teaches the use of a thermoplastic elastic web between two unbonded carded webs (col. 7, lines 5-40). Abuto et al. teach the use of polyolefin elastomers as a good material for elastic films joined to nonwoven webs (col. 9, lines 15-40, col. 6, line 35 to column 7, line 40). The instant invention claims the use of polyolefin elastomers in an elastic film bonded to an unbonded

nonwoven web. It would have been obvious to one of ordinary skill in the art to make the elastic films of Srinivasan et al. or Quantrille et al. out of polyolefin elastomers in order to substitute a different type of thermoplastic elastomer equivalent to those used in the base references because of the teachings of Abuto et al. It further would have been obvious to vary the basis weights of the laminate depending on the density of the material desired for the final product application. Selection of materials for the carded fibers from the options given in the references is taken as being within the ordinary skill of the art absent unexpected results. Quantrille et al. teaches a bonding additive (col. 6, lines 40-50) as well as conjugate binding fibers (col. 10, lines 10-25).

3. Claims 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quantrille et al. (U.S. 5,431,991) in view of Chappell et al. (U.S. 6,027,483).

Quantrille '991 teaches the use of a thermoplastic elastic web between two unbonded carded webs (col. 7, lines 5-40) as well as formation of the elastic layer directly in line and by extrusion and the use of thermal adhesive lamination and other well known processes (col. 9, lines 5-20, col. 5, lines 25-35).

Chappell et al. teaches the use of extrusion lamination using partially molten film as a known way of bonding web materials. The instant invention claims the use of extrusion bonding to join a carded unbonded web to an elastic film. It would have been obvious to one of ordinary skill in the art to have used extrusion bonding to laminate the webs and film of Quantrille in order to provide an alternate well known method of bonding because of the teachings of Chappell et al.

4. Applicant's arguments filed 08 September 2003 have been fully considered but they are not persuasive.

Applicant continues to argue that the carded web of Srinivasan et al. (U.S. 5,851,935) is bonded before lamination to the elastic material and quotes column 2, lines 51-56 of the reference. Upon review the examiner cannot locate the phrase quoted by applicant at col. 2, lines 51-56 of Srinivasan et al, though it there is a similar phrase at col. 4, lies 55-56 that says the webs are carded and thermal spot bonded. Lines 58-60 at column 4 explicitly state that the thermal spot bonding is after the carded web is laid upon the film layer, not before as argued by applicant. As also stated in the last rejection, columns 5 and 6 and Figure 2 clearly teach carding with no

bonding step before lamination with the film layer, which is the bonding step referred to at col. 2, lines 30-35 of the reference.

Applicant argues that there is no motivation to combine Abuto et al. with Srinivasan et al. or Quantrille et al. because Abuto et al. does not teach explicitly that the elastomers of Abuto et al. can be used in a elastomer film that is bonded to nonwoven webs in the case of Srinivasan et al. or as elastic cross fibers in the case of Quantrille et al. The examiner is of the opinion that no such specific teaching is needed in view of the general level of skill in the art shown in the references regarding selecting elastomers for use in sanitary articles. All three of these references show elastic materials being used in sanitary articles in either film or fiber form. Quantrille et al. teaches a long list of suitable elastomers in col.5, lines 35-55 that includes styrene based block copolymer elastomers, polyurethane elastomers, polyester elastomers and others for use in elastic cross threads. Srinivasan et al. in col. 5 lines 15-30, also teaches the use of thermoplastic elastomers in general and styrene based block copolymer elastomers in particular in a film application. Abuto et al. is directed to elastic fibers as is Quantrille et al. and teaches

polymer elastomers in general and polyurethane and styrene based block copolymers as alternatives to polyolefin polymers that are used in the examples (col. 6, lines 35-65). Given the fact that all three references teach polymer elastomers in general and styrene block elastomers in particular in film and/or fiber applications, the opinion of the examiner is that one of ordinary skill in the art would have a reasonable expectation of success in using the polyolefin elastomers of Abuto et al. in place of the styrene based block elastomers of the main references when motivated by relative material availability and cost.

Selection of a polyolefin elastomer for the film of Srinivasan et al. that meets the temperature requirements of Srinivasan et al. is also taken as being within the skill of the art as the relative temperature requirements of the reference are clearly stated and the melting temperatures of commercial polymers such as those taught in the references are readily available. Regarding the bonding agent of Quantrille et al. the instant claims simply call for a bonding agent in the elastomer material, which is what is taught by Quantrille et al.

Regarding the rejection of Quantrille et al. in view of Chappell et al. applicant argues that Chappell et al. teaches a

non-traditional elastomer and therefore would not be combined by one of ordinary skill with Quantrille et al. The examiner notes that Chappell et al. teaches the use of thermoplastic elastomers (col. 20 lines 50-55) as does Quantrille et al. col. 5, lines 35-37). As the same elastomers are taught in both references, there is no teaching away because of the types of elastomers specified in the references. There is substantial overlap in the bonding methods taught by Quantrille et al. at col. 9, lines 15 through 20 and Chappell et al. at col. 21, lines 20-30. As both the film of Chappell et al. and the net of Quantrille et al. can be extruded and Chappell et al. teaches extrusion bonding as an alternative to the various types of bonding taught by Quantrille et al. one of ordinary skill in the art would have a reasonable expectation of success in using extrusion bonding as an alternative to the explicitly taught techniques of Quantrille et al. in order to avoid having hydro equipment or the use of adhesives with solvents.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this

action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 571-272-1503. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR of Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WW/ww
June 13, 2004

WILLIAM P. WATKINS III
PRIMARY EXAMINER